



ASSOCIATION OF PENSION LAWYERS

c/o Linklaters LLP, One Silk Street, London EC2Y 8HQ

Data sharing code consultation
Parliament & Government Affairs
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

6 September 2019

Dear Sirs

ICO Consultation on the Draft Data Sharing Code of Practice

I am writing on behalf of the International Committee of the Association of Pension Lawyers (the "**Committee**"). The Association of Pension Lawyers represents members of the legal profession in the UK who specialise in pensions and pensions-related law. It has over 1000 members. It is a non-political, non-lobbying, not for profit organisation.

The members of the Committee are pension lawyers who have a particular interest in, and whose day to day practice involves, international aspects of pensions law (including European regulation, such as the General Data Protection Regulation).

General comments

We would like to make the following general comments on the updated draft data sharing code of practice:

- Under the heading "What are the legal powers in the public sector?", the reference to legislation being the source of public bodies' powers would seem helpful to expand upon. The draft code provides that "Most public sector organisations derive their powers entirely from statute" (page 58). The section then refers to how a public sector organisation can review its statutory obligations and powers. In this regard the ICO may consider expanding reference to obligations in addition to powers. The heading of the section refers to powers but not obligations and the three paragraphs under that heading also refer to powers rather than obligations.
- The ICO may also wish to consider adding to the statement as to organisations deriving their powers "entirely" from statute. Whilst statute is of importance, certain obligations and powers may derive from other sources such as Royal Charter, case law and directly effective EU law and therefore referring to such additional sources could assist readers.
- The draft code also helpfully refers to the provision of information as part of an enforcement process (page 62). This section refers primarily to the position in respect of enforcement action. There may also be other circumstances where there is a legal requirement to provide information, including to other regulatory

bodies, for example to the Pensions Regulator under Section 72 of the Pensions Act 2004. Additional guidance in this area may also be helpful to include in the code.

Please direct any reply to the Association in this matter to me at john.sheppard@linklaters.com and the address set out above.

Yours faithfully

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